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Department of the Treasury
Washington, DC 20224

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January 28, 2014

LEGEND

X =

Trust =

A =

B =

State =

Date =

1
Date =

2
Date =

3
Date =

4

Court =

Dear :

This letter responds to a letter dated July 9, 2013, submitted on behalf of Trust requesting a ruling that Trust will qualify as a Qualified Subchapter S Trust (QSST) under section 1361(d)(3) of the Internal Revenue Code.

FACTS

The information submitted states that X was incorporated under the laws of State on Date 1 and intends to file a Form 2553, Election by a Small Business Corporation, to be an S corporation effective Date 2. A, the income beneficiary of Trust, died on Date 3.

Upon A's death, Trust's assets were divided into two shares. The income from one share is required to be paid to B, who is also the trustee. Under the terms of the Trust, Trust was eligible to elect to be treated as a QSST except that a provision in the Trust could have caused corpus of the Trust to be distributed during the life of the current income beneficiary to someone other than such beneficiary. On Date 4, Court of State approved a petition filed by B and entered an Order modifying Trust to remove the clause that could have caused corpus of Trust to be distributed during the life of the current income beneficiary to someone other than such beneficiary. B is a citizen of the United States.

LAW AND ANALYSIS

Section 1361(b)(1) provides that the term "small business corporation" means a domestic corporation which is not an ineligible corporation for such year and which does not, among other limitations, have as a shareholder a person (other than an estate, a trust described in § 1361(c)(2), or an organization described in § 1361(c)(6)) who is not an individual.

Section 1361(c)(2)(A)(i) provides that for purposes of § 1361(b)(1)(B), a trust all of which is treated (under subpart E of part I of subchapter J of this chapter) as owned by an individual who is a citizen or resident of the United States may be an S corporation shareholder.

Section 1361(d)(1) provides in part, that in the case of a QSST with respect to which a beneficiary makes an election under § 1361(d)(2), such trust shall be treated as a trust described in § 1361(c)(2)(A)(i) for purposes of § 678(a) and the beneficiary of such trust shall be treated as the owner of that portion of the trust which consists of stock in such S corporation with respect to which the election under § 1361(d)(2) is made.

Section 1361(d)(2)(B)(iii) provides that if a QSST election is made with respect to any beneficiary, an election under § 1361(d)(2) shall be treated as made by each successive beneficiary unless such beneficiary affirmatively refuses to consent to such election.

Section 1361(d)(3) defines a QSST as a trust all of the income (within the meaning of § 643(b)) of which is distributed (or required to be distributed) currently to 1 individual who is a citizen or resident of the United States. In addition, the terms of the trust must require that (i) during the life of the current income beneficiary, there shall only be 1 income beneficiary of the trust, (ii) any corpus distributed during the life of the current income beneficiary may be distributed only to such beneficiary, (iii) the income interest of the current income beneficiary in the trust shall terminate on the earlier of such beneficiary's death or termination of the trust, and (iv) upon the termination of the trust during the life of the current income beneficiary, the trust shall distribute all of its assets to such beneficiary.

CONCLUSION

Based solely on the facts submitted and representations made, we conclude that Trust, as modified by the Order of Court, meets the requirements of § 1361(d)(3). Accordingly, Trust, as amended, will be a QSST within the meaning of § 1361(d)(3), provided that the proper election to be treated as a QSST is made by B, and X has made the proper election to be treated as an S corporation.

Except as expressly provided herein, we express or imply no opinion concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, we express or imply no opinion regarding whether X is otherwise eligible to be treated as an S corporation.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with a power of attorney on file with this office, we are sending a copy of this letter to your authorized representative.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

Sincerely,

James A. Quinn
Senior Counsel, Branch 3
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2):

Copy of this letter
Copy for § 6110 purposes